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May 26, 2023

VIA ECF

Hon. Paul G. Gardephe, U.S.D.J.
United States District Court for the
Southern District of New York
40 Foley Square
New York, New York 10022

Re: Melina N. Jacobs, et al. v. Verizon Communications Inc., et al.
No. 16-cv-1082 (PGG) (RWL)

Dear Judge Gardephe:

This firm represents Defendants in the above-referenced case. We write, on consent of both Parties, to respectfully request (i) that Your Honor excuse the Parties from filing all trial exhibits via ECF as required by Sections X(C)(5) and X(A)(11) of Your Honor's Individual Rules of Practice prior to trial except for any affidavits constituting direct testimony required by Section X(C)(3), or alternatively (ii) that Your Honor extend the Parties' deadline to file their trial exhibits via ECF for one week, up to and including June 16, 2023. The Parties will provide an electronic version of the exhibits to Your Honor regardless of whether Your Honor requires the Parties to file the exhibits via ECF prior to trial. The Parties further request that they have until July 3, 2023 to file any demonstrative exhibits and objections thereto.

Your Honor's rules require that, in non-jury trials, the Parties must file "[o]ne set of the party's documentary exhibits organized sequentially," with the proposed joint pre-trial order and to append to the joint-pre-trial order "[a] copy of each hard copy exhibit" to be offered in a party's case in chief. See Sections X(C)(5) and X(A)(11). The Parties' joint pre-trial order is currently due to be filed on June 9, 2023. [ECF Dkt. No. 219]. Therefore, the Parties are required to file via ECF all trial exhibits by June 9, 2023.

At present, Defendants alone anticipate submitting approximately 1,500 exhibits (absent demonstratives), 729 of which will be filed jointly with Plaintiffs. Plaintiffs, as well, anticipate submitting an additional 100 to 150 exhibits (absent demonstratives) for trial. Therefore, the Parties are required to file a total of approximately 1,650 exhibits by June 9, 2023. [ECF Dkt. No. 219]. The burden to the Parties in coordinating the ECF filing of each of these numerous trial exhibits, some of which are quite lengthy, is significant in its number and volume and due to the various other trial preparation matters each party is currently addressing. Moreover, there are at least 300 excel exhibits which cannot be printed for filing in a way that is useful and often results in overly lengthy exhibits; the natives of these

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documents, not the printout, will be used at trial. The burden is further heightened as approximately 100 of the trial exhibits are to be filed under seal and redacted as required by third parties and as necessary to comply with the Court's prior orders on that subject. [ECF Dkt. Nos. 200 & 201].

Given the unusually large number of trial exhibits in this matter, the Parties respectfully request excusal from filing each exhibit via ECF under these circumstances prior to trial. In lieu of filing each trial exhibit via ECF, the parties respectfully request leave to submit their exhibits to the Court electronically via email, CD-ROM,¹ hard drive, FTP link, or whatever other method the Court prefers by no later than June 14, 2023.

Alternatively, the Parties respectfully request that the Court grant them an extension of time up to and including June 16, 2023, to file their trial exhibits on ECF.² This extension of time would provide the parties with more time to coordinate the filing of such a large number of exhibits and make the necessary redactions required.

Your Honor's Rule X(A)(11) requires the Parties to list and append to the motion "exhibits to be offered in its case in chief" with its joint pre-trial filing on June 9. The Parties further respectfully request an extension to file any demonstrative exhibits and objections thereto until July 3, 2023. The Parties agree that demonstrative exhibits may be useful at trial and agree that having them prepared and reviewed by each Party prior to June 9, particularly as the Parties will be in mediation June 1 and 2, will be burdensome. The Parties further agree that demonstratives and summaries may be submitted after July 3, 2023 for good cause and within twenty-four hours-notice to the other party.

¹ We note that Your Honor's rules state that electronic exhibits should be submitted by "CD-ROM or email" to the Court. The Parties can certainly submit their electronic exhibits to the Court via CD-ROM if that is the Court's preference. But given the sheer volume of data that makes up the Parties approximately 1,650 exhibits, submission to the Court by CD-ROM would require numerous separate CD-ROMs to be submitted. For that reason, the Parties believe that CD-ROM would not be the most efficient way to submit the exhibits to the Court. But nonetheless, the parties will comply with the Court's preferred method of submission.

² For the avoidance of doubt, the Parties are not requesting an extension of time to file their joint pre-trial order. Regardless of the Court's decision on this request, the Parties will file their joint pre-trial order on June 9, 2023, as ordered. This request solely addresses the requirement that the Parties file their trial exhibits via ECF on the date the pre-trial order is due.

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Thank you for your attention to this matter. If Your Honor has any questions, the parties can be made available at the Court's convenience.

Respectfully submitted,



A handwritten signature in blue ink, appearing to read "Christopher J. Moro".

Christopher J. Moro

cc: All counsel of record (via ECF)